

Message Text

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ORIGIN OPIC-06

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DRAFTED BY OPIC/ID/MEA:CHMIDDLETON:JMB

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AF/W:RMCGUIRE (SUBS)

-----052333 041102 /73

R 050209Z MAR 77

FM SECSTATE WASHDC

TO AMEMBASSY ACCRA

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FROM OPIC

E.O. 11652:N/A

TAGS: EINV

SUBJECT:REQUEST FOR OPIC INSURANCE - LVOI - 641-77-151

1. THIS CABLE IS WRITTEN TO BRIEF EMBASSY ON OIL CONCESSION PROJECT OPIC HAS BEEN REQUESTED TO INSURE, TO CLARIFY OPIC'S FOREIGN GOVERNMENT APPROVAL (FGA) PROCEDURES AND TO SEEK EMBASSY ASSISTANCE. ON DECEMBER 13, 1976, AN OFFSHORE (OIL PROSPECTING LICENSE) AGREEMENT WAS SIGNED BY COLONEL ABDULLAI IBRAHIM, COMMISSIONER OF THE MINISTRY OF LANDS AND MINERAL RESOURCES AND BY OFFSHORE HYDROCARBONS CORPORATION (OFFSHORE HYDRO). SUBSEQUENTLY, ON DECEMBER 13, 1976 OFFSHORE HYDRO ASSIGNED ITS INTEREST IN THE ABOVE PROSPECTING LICENSE TO AGRI-PETCO OF GHANA, A COMPANY
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OWNED BY INDIANA FARM BUREAU COOPERATIVE ASSOCIATION, INC., (INDIANA), NATIONAL COOPERATIVE REFINERY ASSOCIATION (NCRA) AND TEXAS CITY REFINERY, INC., (TCR), ALL U.S.-OWNED CO-OPERATIVES. LVOI WILL MANAGE THE CONCESSION FOR AGRI-PETCO, AND WILL IN TURN ARRANGE TO HAVE CERTAIN FUNCTIONS SUBCONTRACTED. THE OWNERS, INDIANA, NCRA, AND TCR, ARE PLANNING TO INVEST ABOUT 5 TO 10 MILLION (US) DOLLARS OF

EQUITY FUNDS AND TO FINANCE THE BALANCE OF THE ESTIMATED TOTAL INVESTMENT OF 35 MILLION (US) DOLLARS BY LOANS FROM U.S. FINANCIAL INSTITUTIONS TO AGRI-PETCO THAT MAY BE GUARANTEED BY THE OWNERS. OPIC WILL CONSIDER INSURING

EQUITY AND LOAN GUARANTY INVESTMENTS BY THE OWNERS OR DEBT INVESTMENTS BY LENDING INSTITUTIONS.

2. THE FOLLOWING IS A SUMMARY OF STANDARD OPIC PROCEDURES ON OBTAINING FGA FOR OPIC INSURANCE AS RELATED TO LVOI CASE. IN MOST INSTANCES THE FGA IS OBTAINED FROM A DESIGNATED MINISTRY, WHICH IN GHANA IS THE MINISTRY OF ECONOMIC PLANNING, ATTN: THE HON. M. CHENNERY - HESSE, PRINCIPAL SECRETARY, P.O. BOX M.76, ACCRA, GHANA. HOWEVER, IN CASES WHERE THE INSURED INVESTMENT EXCEEDS U.S. DOLLARS 25 MILLION OR IN OTHER EXCEPTIONAL CASES, OPIC REQUIRES QUOTE FURTHER ASSURANCES END QUOTE WHICH ARE USUALLY PROVIDED IN A STATEMENT BY A SENIOR GOVERNMENT OFFICIAL THAT THE PROJECT IS APPROVED FOR THE PURPOSES OF OPIC INSURANCE OR SIMILAR LANGUAGE INDICATING THAT THE HOST GOVERNMENT AT ITS HIGHEST LEVEL IS AWARE OF THE PROPOSED OPIC INSURANCE OF AN INVESTMENT IN THE PROJECT AND HAS APPROVED THE ISSUANCE OF THE OPIC INSURANCE. IN THE CASE OF THE LVOI PROJECT IN GHANA, OPIC WOULD SEEK FURTHER ASSURANCES BECAUSE THE INVESTMENT TO BE INSURED MAY EXCEED U.S. DOLLARS 25 MILLION AND BECAUSE IT INVOLVES AN EXTRACTIVE PROJECT.

3. AP APPROPRIATE FORMULATION FOR FURTHER ASSURANCES IN LIMITED OFFICIAL USE

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THIS CASE WOULD BE QUOTE THE GOVERNMENT OF GHANA, IN ACCORDANCE WITH THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND GHANA SIGNED IN ACCRA SEPTEMBER 30, 1958 AS SUPPLEMENTED ON MARCH 3, 1967, APPROVES THE ISSUANCE OF INSURANCE BY THE OVERSEAS PRIVATE INVESTMENT CORPORATION WITH RESPECT TO AN INVESTMENT BY INDIANA FARM BUREAU CO-OPERATIVE ASSOCIATION, INC., NATIONAL COOPERATIVE, REFINERY ASSOCIATION, TEXAS CITY REFINING, INC., AND ONE OR MORE U.S. FINANCIAL INSTITUTIONS A PROJECT TO EXPLORE FOR, DEVELOP, PRODUCE AND MARKET PETROLEUM UNDER AN ASSIGNMENT OF THE OFFSHORE (OIL PROSPECTING LICENSE) AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF GHANA AND THE OFFSHORE HYDROCARBONS CORPORATION DATED DECEMBER 13, 1976 AND UNDER A RELATED OFFSHORE (OIL WINNING LICENSE) AGREEMENT, WHEN AND IF SUCH AGREEMENT IS ISSUED END QUOTE. IT IS NOT NECESSARY TO OBTAIN THE FGA APPROVAL FROM THE MINISTRY OF ECONOMIC PLANNING IF A LETTER OF FURTHER ASSURANCES IS ISSUED, BUT, IF EMBASSY THINKS IT WOULD BE PREFERABLE, OPIC WILL ASK LVOI TO REQUEST AN FGA.

4. THE STANDARD PROCEDURE IS FOR THE INVESTOR TO SEEK THE FGA AND, WHERE REQUIRED, THE FURTHER ASSURANCES FROM THE HOST GOVERNMENT. IT IS USUALLY DESIRABLE THAT NEITHER OPIC NOR THE EMBASSY BE PERCEIVED AS PERSUADING THE HOST GOVERNMENT TO GRANT AN FGA OR FURTHER ASSURANCES TO AVOID

ANY SUBSEQUENT ALLEGATION THAT USG PRESSURE WAS EXERTED. HOWEVER, SINCE THE FGA AND FURTHER ASSURANCES ARE USUALLY IN THE FORM OF LETTERS ADDRESSED TO THE UNITED STATES EMBASSY, SOMETIMES IT IS HELPFUL FOR THE EMBASSY TO EXPLAIN THE FGA AND FURTHER ASSURANCES PROCEDURE TO HOST GOVERNMENTS OR OTHERWISE TO FACILITATE THE PROCEDURES. LVOI WILL ASSUME THE RESPONSIBILITY OF OBTAINING THE FURTHER ASSURANCES AND AN FGA FROM THE GOG. OPIC WOULD APPRECIATE, HOWEVER, THE EMBASSY ADVISING OPIC AND LVOI AS TO THE EMBASSY'S OPINION AS TO THE APPROPRIATE SENIOR GOG LIMITED OFFICIAL USE

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OFFICIAL FROM WHOM TO SEEK FURTHER ASSURANCES.

5. THE FOLLOWING AGRI-PETCO LVOI OFFICIALS PLAN TO TRAVEL TO GHANA THIS WEEK: BILL ST. JOHN, VICE PRESIDENT, TOM BROWN, OPERATING MANAGER, AND JOHN L. WAITS, SECRETARY/TREASURER. OPIC RECOMMENDS AMBASSADOR MEET WITH THESE OFFICIALS IF POSSIBLE.

6. IMMEDIATELY AFTER OFFSHORE HYDRO OBTAINED THE OFFSHORE (OIL PROSPECTING LICENSE) AGREEMENT ON DECEMBER 13, 1976 IT ASSIGNED ALL ITS RIGHTS AND OBLIGATIONS UNDER THE AGREEMENT TO AGRI-PETCO, WHICH IS OBLIGATED TO PAY OFFSHORE A COMMISSION OR OVERRIDE ON PETROLEUM PRODUCTION AND WHICH HAS PAID OFFSHORE 500,000 (US) DOLLARS AS A QUOTE NON-RECOVERABLE OVERRIDE ADVANCE END QUOTE. OPIC ASSUMES SUCH PAYMENT CONSTITUTED THE COST OF THE BONAFIDE PURCHASE OF A CONTRACTUAL RIGHT FROM A PROMOTER, I.E., OFFSHORE HYDRO AND ITS AGENT OR REPRESENTATIVE, JAKE SIMMONS, A FORMER OFFICIAL OF THE DEPARTMENT OF STATE. IF THE EMBASSY BELIEVES THE 500,000 (US) DOLLAR PAYMENT SHOULD BE CHARACTERIZED DIFFERENTLY, PLEASE SO INFORM OPIC. OPIC WOULD ALSO APPRECIATE ANY OPINION EMBASSY MIGHT HAVE AS TO THE BASIC FAIRNESS OF THE CONCESSION ARRANGEMENT SINCE OPIC WOULD NOT WANT TO INSURE A CONCESSION ARRANGEMENT THAT IS NOT CONSIDERED FAIR TO THE HOST GOVERNMENT. COPIES OF THE UNDERLYING CONCESSION AGREEMENTS WILL BE POUCHED TO THE EMBASSY.

7. NEITHER OPIC'S SENIOR MANAGEMENT NOR ITS BOARD HAS YET REVIEWED THIS PROJECT OR DECIDED WHETHER OR NOT OPIC WILL ISSUE INSURANCE.

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Message Attributes

Automatic Decaptioning: X
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Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INSURANCE, LAW, PETROLEUM CONCESSIONS
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Sent Date: 05-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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Disposition Remarks:
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Drafter: CHMIDDLETON:JMB
Enclosure: n/a
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Errors: N/A
Expiration:
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Review Release Date: n/a
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